IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Crl.Rev.Pet.No. 3778 of 2007()

CC.41/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, ALUVA

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REVN. PETITIONER: COMPLAINANT

VARGHESE GEORGE, AGED 41 YEARS,
S/O. K.G.GEORGE, HOUSE NO.34/220,
MOSQUE ROAD, PADIVATTOM, EDAPPALLY.

BY ADV. SRI.A.SHAFEEK

RESPONDENTS: ACCUSED & STATE

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1. T.G.CHARLSE @ LALU,
THARAYIL PUTHEN VEEDU, PADANILAM P.O.,
NOORANADU.

2. SUB INSPECTOR OF POLICE,
NOORANADU THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL. R.P. NO. 3778 OF 2007

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Dated this the 23rd day of October, 2007.

ORDER

This revision is filed by the irresponsible complainant in a prosecution under Section 138 of the Negotiable Instruments Act and Section 420 of the Indian Penal Code. The cheque involved in the case is for a sum of Rs.90,000/-. Consequent on the non-appearance of the accused, non-bailable warrants were issued against him without any result. Subsequently, the Magistrate ordered the non-bailable warrant to be handed over to the petitioner for execution and he was directed to file an affidavit regarding the course adopted by him and the case was posted to 03.04.2007. On that day he was absent. There was no representation nor affidavit filed as directed. The case was then posted to 11.05.2007. On that day also, he remained absent. Non bailable warrant was therefore ordered through the Superintendent of Police, Alappuzha and directed to be handed over to the complainant who was in turn directed to take steps through Superintendent of Police and also by registered post. He

was directed to aid the police in execution of the warrant by pointing out the accused and to file an affidavit regarding the course adopted by him. The case was accordingly posted to 02.07.2007 on which day also he remained absent and no affidavit was filed nor any steps taken as ordered. This was the regular pattern of inaction on the part of the revision petitioner on the subsequent posting also. He would now contend that on some of the postings of the case, he had gone to Saudi Arabia and other places and that was the reason for non-compliance of the order of the court below. This is hardly a reason justifying his conduct. If he had to go abroad, he should have appointed a Power of Attorney for the smooth progression of the case. That also was not done. The court below was over indulgent towards the petitioner by showing maximum tolerance. It was as a last resort that the court below passed the impugned order dated 31.07.2007. Notwithstanding the lackadaisical attitude of the petitioner, I am inclined to give him one more opportunity. The impugned order is set aside and C.C. No. 41/2004 is restored to file before the Judicial First Class Magistrate-II, Aluva. The

petitioner shall appear before that Court on **12.11.2007** without any further notice. By that time he shall have taken all the necessary steps for effective service of summons or warrants as the case may be, on the accused.

V. RAMKUMAR, JUDGE.

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